
State of Missouri
**Office of Child Advocate for Children's
Protection and Services**

2022
Annual Report



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Office of
Child Advocate for Children's
Protection and Services
Annual Report 2022*

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State of Missouri
**Office of Child Advocate
for Children's Protection and Services**

Michael L. Parson
Governor

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Becky Ruth
Child Advocate

The Honorable Michael L. Parson
Governor of the State of Missouri

The Honorable Paul C. Wilson
Chief Justice of the Missouri Supreme Court

Dear Governor Parson and Chief Justice Wilson:

I am pleased to present the 2022 Annual Report of the Office of Child Advocate. The report covers the time frame of January 1, 2021 through February 15, 2022 due to the 45 day window for case completion.

I am honored to be appointed the Child Advocate. I truly appreciate this opportunity to serve the children and families of Missouri. The office is committed to its statutory duties which includes enhancing the lives of Missouri children by receiving, investigating, and acting on complaints regarding the child welfare systems and also making case specific system wide recommendations regarding the best interest and safety of children.

Thank you for your commitment to the children and families of Missouri.

Respectfully submitted by:

A handwritten signature in cursive script that reads "Becky Ruth".

Becky Ruth

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History

The Office of Child Welfare Ombudsman was established by Governor Bob Holden's Executive Order in 2002 to act as an agent of accountability regarding Children's Protection Services. In 2004, the 92nd General Assembly passed Speaker Catherine Hanaway's House Bill 1453. The legislation changed the office name to the Office of Child Advocate for Children's Protection and Services and strengthened the role of the office. Governor Jay Nixon signed Senator Jane Cunningham's Senate Bill 54 into law in 2011 authorizing the Office of Child Advocate to coordinate mediation efforts between school districts and students when allegations of child abuse arise in a school setting. In 2014, Senator Eric Schmitt's SB869 and Rep. Bill Lant's HB1092 were signed into law by Governor Nixon authorizing OCA to intervene on behalf of a child during judicial proceedings. Senator Jeanie Riddle's 2015 SB341 authorized OCA to conduct a county review of policy and procedures of Children's Division, the Juvenile Office, and Guardian ad Litem to improve the handling of child welfare cases within a circuit. (See Appendix B for statute language.) Since its inception, the office has served a total of 17,447 children.

Operation of the Office

Staff

The Office of Child Advocate is directed by the Missouri Child Advocate who is appointed by the Governor and Chief Justice of the Supreme Court, with the advice and consent of the Senate.

Additional current staff includes five Senior Investigator Specialists— AC and Investigations Investigators and 1 Administrative Office Support Professional.

The Office of Child Advocate is also under the consideration and supervision of the Office of Administration per RSMO 37.705

OCA Staff:

Becky Ruth, Executive Director
Kerri Ferrari, Senior Investigator
LaToya Gatewood, Senior Investigator
Kelly Kuda, Senior Investigator
Laurie Massey, Senior Investigator
Sherry Moller, Senior Investigator
Hannah Dolan, Admin. Assistant

Budget

The Office of Child Advocate is funded through state general revenue funds and federal funds distributed through the Department of Social Services. The budget appropriation for 2022-2023 is \$473,138. The increase accounts for the addition of 1 FTE as approved and appropriated.



Role of the Office

The Office of Child Advocate operates under the Office of Administration and is, therefore, independent of the Department of Social Services, Children's Division, the Department of Mental Health, and the Juvenile Court. The office provides citizens an avenue to obtain an independent and impartial review of disputed decisions, actions and inactions regarding any child at risk of abuse, neglect or other harm.

The Office of Child Advocate offers eight primary services to concerned citizens:

- ◆ Foster care case management review
- ◆ Unsubstantiated hotline investigation reviews
- ◆ Mediation between parents and schools regarding abuse allegations in the school setting
- ◆ Review child fatalities with a history of child abuse and neglect concerns or involvement with the Children's Division
- ◆ Intervene on behalf of a child during judicial proceedings
- ◆ Review policy and procedures of Children's Division, the Juvenile Office, and Guardian ad Litem within a county
- ◆ Increase knowledge of professionals and the general public regarding child welfare
- ◆ Provide information and referrals for families needing resources

Additional responsibilities include:

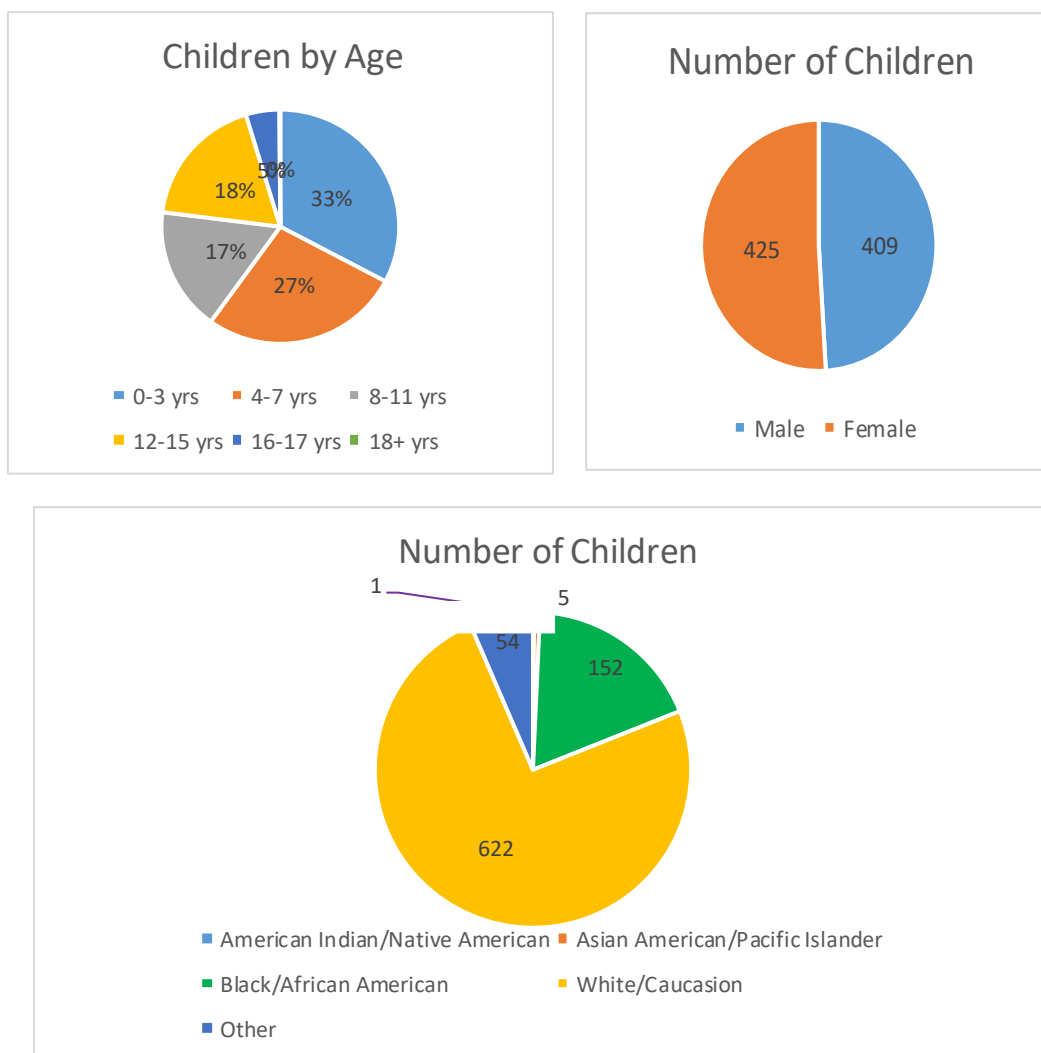
- ◆ Offering case specific and systemic recommendations when appropriate
- ◆ Improve family services by examining laws, policies and procedures
- ◆ Provide an annual report to the Governor and Chief Justice
- ◆ Educate the public regarding the child welfare process in Missouri while increasing public awareness of the Office of Child Advocate

Receiving Complaints

From January 1 through December 31, 2022, the Office of Child Advocate received 586 complaints/contacts involving 878 children that resulted in 502 case reviews. This number also includes cases where there was more than one complainant for a case but only counts as one case review

The composite number of complaints/contacts received by the Office of Child Advocate and is categorized according to (1) New Cases, (2) Reopened Cases, (3) Unsubstantiated Reviews, (4) Information and Referrals, (5) Cases as part of SB341 Review (6) Fatalities, (7) Mediation and (8) Unable to Contact (due to phone numbers no longer in service, etc.).

In 2022 OCA Updated and Redesigned the OCA Website to include an online complaint form that complainants could fill out and submit electronically to a secure SharePoint site. This was important to make the process more accessible to complainants. From its implementation in August of 2022 to December 31, 2022, we received 141 complaints via online submission from the OCA website.



Investigating Complaints

Upon the receipt of a complaint, the Office of Child Advocate notifies the appropriate Children's Division Circuit Manager, Division Director, and Juvenile Office that our office has been requested to review a case. The identity of the complainant is kept confidential unless our office is given permission to share the information with the appropriate parties. The Office of Child Advocate proceeds to determine the appropriate level of investigation. Possible levels of investigation include:

- 1) No investigation needed
- 2) Gather information and interact as necessary with involved parties
- 3) Request and review the Children's Division case file
- 4) Conduct on-site review

| Complaint Types | |
|-----------------|---------------------------|
| 322 | AC/IIS/FCS Reviews |
| 22 | Reopened Cases |
| 97 | Unsubstantiated Reviews |
| 97 | Assessment Reviews |
| 118 | Information and Referrals |
| 1 | Fatalities |
| 0 | Mediation |
| 4 | TAPA/Diversion |
| 1 | Unable to Contact |
| 662 | Total |
| See p.9 | SB 341 |

Concluding Complaints

Reviews and investigations generally try to be concluded within 45 business days when possible. Extenuating circumstances may occasionally extend the investigation in certain instances, such as continued court dates, ongoing concerns or new allegations. The Office of Child Advocate will issue a letter of conclusion to the appropriate Children's Division Circuit Manager, Regional Director, Division Director, Juvenile Office and the complainant. In cases where confidential information cannot be shared with the complainant, a separate letter will be issued to the complainant. Possible conclusions may involve:

- 1) No policy/procedure error(s) noted
- 2) Policy/procedure error(s) noted
- 3) Practice issue(s) identified
- 4) Identification of best practices by Children's Division
- 5) Case recommendation(s) offered for improving services to the child, children or

families.

SB341 Review Procedures

In 2015, House Bill 341 was enacted creating Section 37.719 RSMo., granting the Office of Child Advocate the authority to conduct an independent review of any entity within a county that experienced three or more review requests in a calendar year including, but not limited to, Children's Division, the Juvenile Office, or Guardian ad Litem. The Office was further provided with the authority to make recommendations on changes to any entity's policies and procedures based on the results of the review in order to improve the delivery of services or the function of the entity and to direct such findings and recommendations to the Children's Division and the Office of State Courts Administrator. In addition, the Office was directed to establish and implement procedures for reviewing any such entity. (See Appendix A) As a part of SB 341 Procedures a Circuit Review of the 44th Circuit was begun in 2021 but concluded in February of 2022. This included a comprehensive review of 5 complaints which encompassed a total of 54 separate cases dealing with Investigations, Family Centered Services, and Alternative Care Cases

Increasing Knowledge of Professionals & Public

Per section 37.710.2 (7) RSMo, The Office of Child Advocate is authorized, "to take whatever steps are appropriate to see that persons are made aware of the services of the Child Advocate's office, its purpose and how it can be contacted." Between January 1 and December 31, 2022 the Office of Child Advocate increased the knowledge of Child Welfare professionals and citizens by in-person visits with various judicial circuits and meeting with Children's Division staff and leadership within those circuits, instituting quarterly meetings with the Children's Division Director, Deputy Directors, and other leadership team members, meeting with various law enforcement agencies, Children's Advocacy Centers throughout the state, and Juvenile Officers while at the same time raising the awareness of the Office of Child Advocate. We also instituted a Mission and Vision Statement and created a more user friendly and updated web site with updated links. In addition, all OCA staff have included links to our web site in their email signatures.

The Office of Child Advocate served on the following task forces and work groups to improve child welfare practice and raise awareness of the Office of Child Advocate:

- ◆ Child Fatality Review Program State Panel
- ◆ Child Fatality Review Program Missouri State Foster Care and Adoption Board
- ◆ Missouri State Juvenile Justice Advisory Board
- ◆ Safe Sleep Coalition
- ◆ Family First Statewide Advisory Group
- ◆ Missouri Kinship Navigator Steering Committee

The Office of Child Advocate's awareness and visibility was increased as a result of speaking or participating at the following conferences, trainings, and meetings:

- ◆ Missouri Juvenile Justice Association (MJJA): Administrative Concerns
- ◆ Missouri Juvenile Justice Association (MJJA): Educational Conference
- ◆ Children's Division Executive Staff Meetings
- ◆ Child Advocacy Day

Complaint Types and Sources—New Cases

Types of New Complaints

Complaints to the Office of Child Advocate for Children's Protection and Services generally fall into one of three main categories: 1) child safety 2) family separation and reunification, and 3) dependent child health, well-being, and permanency. These categories involve the following issues:

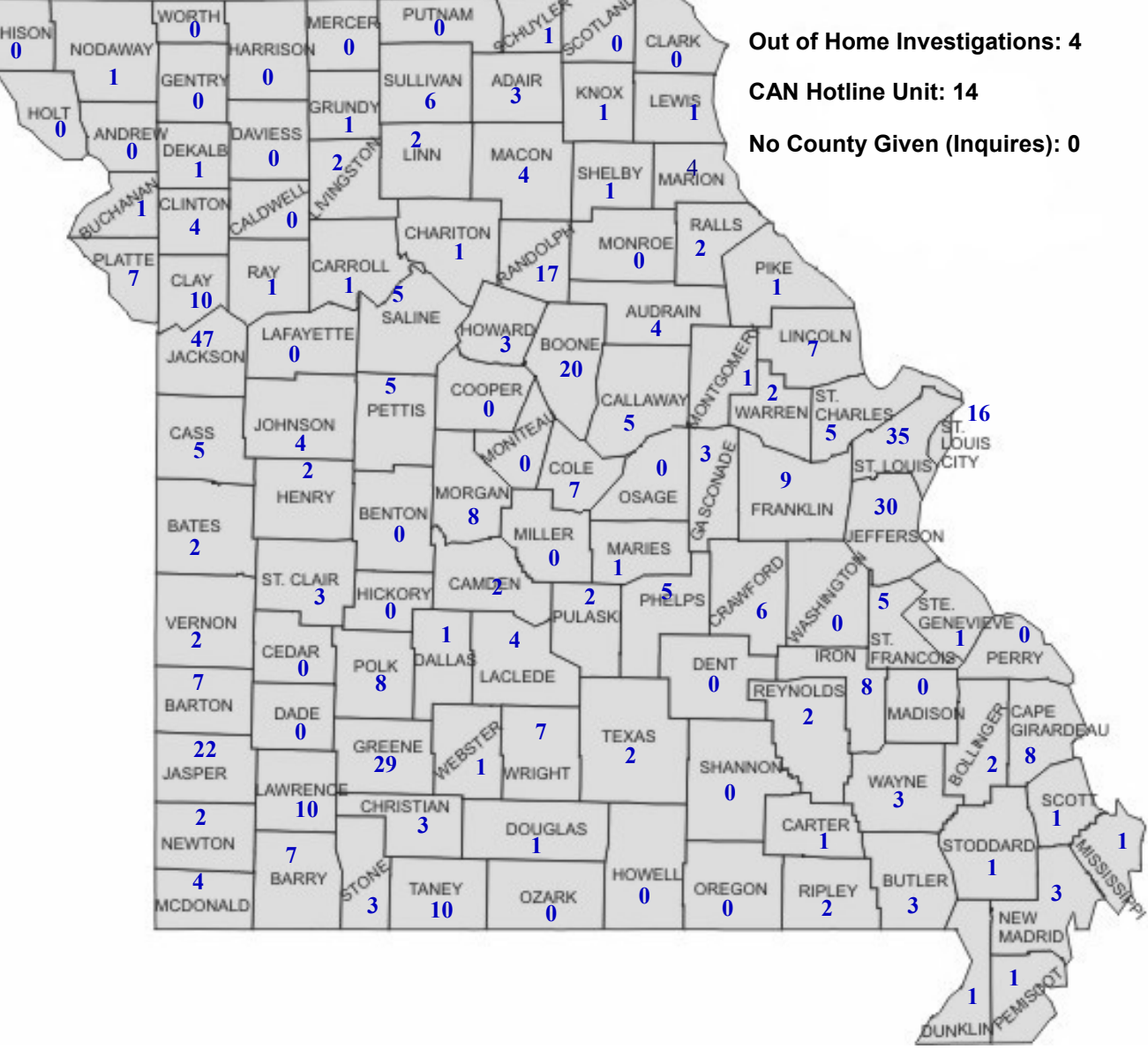
| | |
|--|-----|
| Child Safety _____ | 223 |
| Unsubstantiated & Assessment Reviews _____ | 194 |
| ♦ Failure to protect child from parental abuse | |
| ♦ Failure to address safety concerns involving child in foster care or other substitute care | |
| ♦ Failure to address safety concerns involving child being returned to parental care | |
| ♦ Failure to provide appropriate services to child at risk of harming self or others | |
| Family Separation and Reunification _____ | 163 |
| ♦ Unnecessary removal of child from parental care | |
| ♦ Failure to provide appropriate contact between child and family | |
| ♦ Failure to reunite families despite parental compliance with court-ordered services | |
| ♦ Failure to place child with relatives | |
| ♦ Inappropriate termination of parental rights | |
| Dependent Child Health, Well-Being, Permanency _____ | 18 |
| ♦ Inappropriate change of child's foster or other substitute placement | |
| ♦ Inadequate development or implementation of plan to transition child to new placement | |
| ♦ Failure to provide child with appropriate services | |
| ♦ Unreasonable delay or opposition to adoption | |
| Other _____ | 64 |

Sources of New Complaints

Most of the complaints received by the Office of Child Advocate are from biological parents of children in state care or custody. Specific concerns may revolve around placement, visitation, safety, communication and other related matters. Grandparents are the second highest source of complaints and Foster Parents are the third highest. These calls usually involve family wanting placement of children that have been removed from the parent's home or others who are concerned about the safety of the children living with a parent or other caretaker and/or concerned about permanency for the children.

| Caller Relationship | No. | Caller Relationship | No. |
|--|-----|---------------------|-----|
| Biological Parent | 179 | Grandparent | 55 |
| Prosecutor's Office | 0 | Other Attorney | 4 |
| CASA/GAL* | 3 | Other Relationship | 41 |
| Child | 1 | Other Relative | 31 |
| Children's Division Employee | 7 | Public Defender | 0 |
| Community Professional or Service Provider | 21 | Step-Parent | 5 |
| Foster Parent | 54 | Juvenile Officer | 10 |
| Legal Guardian | 3 | Law Enforcement | 0 |
| | | Total: | 414 |

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Effectiveness Measurements

Though not required by statute, the Office of Child Advocate has established measurement gauges to help ensure effectiveness in serving Missouri children and families. These include initial response time, time frame for completing new reviews, and time allotment for completing unsubstantiated reviews.

A timely initial response is of fundamental importance. A 90% goal has been set to contact the complainant within three business days of any new complaint. In 2022 OCA met this goal in 93% of cases.

The internal goal of the Office of Child Advocate is to complete more than 80% of the investigations and unsubstantiated reviews within 45 business days of receipt of the complaint. However, many factors may cause a case to remain open, out of timeframes. For example, cases involving the court system may be kept open beyond 45 days to sufficiently monitor the court process. In other instances, conducting a complete and thorough investigation may require an extended period of time due to ongoing concerns. In 2022, OCA met this goal in 77% of the cases. In addition to normal caseload, 2 staff members completed the circuit review of the 44th Circuit the first two months of 2022 which took an extended amount of time and resources to complete a thorough review. In addition, the office was very understaffed for the majority of 2022. Beginning in September of 2022 the office added another full time staff member as appropriated from the General Assembly and also chose not to replace the Deputy Director position. Instead we replaced that position with a full time senior investigator. From September through December of 2022 OCA had 5 full time investigators. This improved and cut down the backlog of cases. When the current Child Advocate began this position, there was a very large backlog of cases with some cases dating back to 2018 and investigators having more than 80 open cases per investigator. As of the date of the completion of this report, the backlog of cases stretching back to 2018 has been cleared and completed thanks to the hard work, excellence, and due diligence of the OCA Team. This has greatly improved the timeliness of case reviews and service provided to complainants.

| Measurement | Goal | Met |
|--|------|------|
| Contact complainant within 3 business days after complaint received | 90% | 93%* |
| Complete investigation within 45 business days of receiving complaint | 80% | 77%* |
| January 1 - December 31, 2022 *This is an increased improvement from 2021 | | |



Recommendations for Systemic Improvements

After analyzing data that has been presented for the past year, it is important that we continue looking at the system as a whole to realize the issues within the child welfare system come from multiple sources and not just one particular department.

It is imperative that stakeholders continue to find ways to work together through possible multidisciplinary trainings and collaboration to begin to take ownership of problems and issues within their scope and practice in order to find consistent and broad policy and practice reform.

As a result of the issues that have plagued employment vacancies, we have also seen many important positions within the system become and remain vacant. This puts an increased workload on those who remain and puts the safety of children at a dangerous level. During the writing of this report it is noted the Executive Branch has taken steps to remedy this situation with pay raises and recruitment as well as focusing on retention. It is recommended that these practices continue in order to make sure we maintain excellence in these very demanding positions.

It is recommended that metrics continue to be developed to measure the effectiveness of the current programs and improve the overall outcomes.

It is further recommended that policy and practice implementations be consistent throughout the state and a greater emphasis be placed on the preventative family services offered to reduce the number of children that come into care and the amount of trauma that occurs as a result of these issues.



Acknowledgements

The Office of Child Advocate wishes to thank Governor Michael L. Parson and the General Assembly for their support.

Appreciation is also expressed to the Office of Administration.

The Office of Child Advocate expresses appreciation to the Children's Division, Juvenile Offices, the Judicial Branch, and other agencies that work to help ensure the safety and well-being of children.

Appendix A

County Review Policy

Upon the office receiving three or more review requests within a calendar year, the office may begin a review of the county or if the office after review of independent cases identifies a pattern of concerns within the county, the office may begin a review of the county, to include:

1. Identifying the program line or entity in which the review will be conducted.
2. Identifying the specific concern, delivery of service method or functioning of the identified entity concerns including, but not limited to:
 - ◆ Practices involving visitation, relative placement, sibling separation, requests to cease reasonable efforts, no reasonable efforts provided.
 - ◆ Communication with co-investigation
 - ◆ Safety Planning
 - ◆ MDTs
 - ◆ Requests for Removal to JO
3. Notifying the Regional Director, Juvenile Officer, Circuit Manager, Judge of the Juvenile/Family Court and Office of State Courts Administrator of the requests made and authority to review county within the circuit.
4. Request from Children's Division a random sampling of cases within the program line to be reviewed.
5. Interviewing of stakeholders (to include; Law Enforcement, Juvenile Office, Children's Division, CAC, CASA, GAL, parent attorneys, foster parents) to further identify the specific concern, delivery of services method or functioning of the team members. Requests may be made for additional documentation from stakeholders regarding delivery of services.
6. Request to set up a meeting to discuss concerns within the county and to mediate possible solutions to improve the delivery of services or function of the entity.
7. Issuance of letter with recommendations to address changes to the entity's policies or procedures, delivery of services, or functioning of the entity. Letter to be issued to Children's Division, Juvenile Officer and Office of State Courts Administration.
8. Coordination with Office of State Courts Administration to provide assistance and/or training with regard to the Family Court Improvement Project and/or to develop a plan for change for the county based on the review.

Appendix B
Missouri Revised Statutes
Chapter 37
Office of Administration

Definitions.

37.700. As used in sections 37.700 to 37.730, the following terms mean:

- (1) "Office", the office of the child advocate for children's protection and services within the office of administration, which shall include the child advocate and staff;
- (2) "Recipient", any child who is receiving child welfare services from the department of social services or its contractors, or services from the department of mental health.

Office established--appointment of child advocate.

37.705. 1. There is hereby established within the office of administration the "Office of Child Advocate for Children's Protection and Services", for the purpose of assuring that children receive adequate protection and care from services, programs offered by the department of social services, or the department of mental health, or the juvenile court. The child advocate shall report directly to the commissioner of the office of administration.

2. The office shall be administered by the child advocate, who shall be appointed jointly by the governor and the chief justice of the Missouri supreme court with the advice and consent of the senate. The child advocate shall hold office for a term of six years and shall continue to hold office until a successor has been duly appointed. The advocate shall act independently of the department of social services, the department of mental health, and the juvenile court in the performance of his or her duties. The office of administration shall provide administrative support and staff as deemed necessary.

Access to information--authority of office--confidentiality of information.

37.710. 1. The office shall have access to the following information:

- (1) The names and physical location of all children in protective services, treatment, or other programs under the jurisdiction of the children's division, the department of mental health, and the juvenile court;
- (2) All written reports of child abuse and neglect; and
- (3) All current records required to be maintained pursuant to chapters 210 and 211.

2. The office shall have the authority:

- (1) To communicate privately by any means possible with any child under protective services and anyone working with the child, including the family, relatives, courts, employees of the department of social services and the department of mental health, and other persons or entities providing treatment and services;
- (2) To have access, including the right to inspect, copy and subpoena records held by the clerk of the juvenile or family court, juvenile officers, law enforcement agencies, institutions,

public or private, and other agencies, or persons with whom a particular child has been either voluntarily or otherwise placed for care, or has received treatment within this state or in another state;

(3) To work in conjunction with juvenile officers and guardians ad litem;

(4) To file any findings or reports of the child advocate regarding the parent or child with the court, and issue recommendations regarding the disposition of an investigation, which may be provided to the court and to the investigating agency;

(5) To file amicus curiae briefs on behalf of the interests of the parent or child, or to file such pleadings necessary to intervene on behalf of the child at the appropriate judicial level using the resources of the office of the attorney general;

(6) To initiate meetings with the department of social services, the department of mental health, the juvenile court, and juvenile officers;

(7) To take whatever steps are appropriate to see that persons are made aware of the services of the child advocate's office, its purpose, and how it can be contacted;

(8) To apply for and accept grants, gifts, and bequests of funds from other states, federal, and interstate agencies, and independent authorities, private firms, individuals, and foundations to carry out his or her duties and responsibilities. The funds shall be deposited in a dedicated account established within the office to permit moneys to be expended in accordance with the provisions of the grant or bequest;

(9) Subject to appropriation, to establish as needed local panels on a regional or county basis to adequately and efficiently carry out the functions and duties of the office, and address complaints in a timely manner; and

(10) To mediate between alleged victims of sexual misconduct and school districts or charter schools as provided in subsection 1 of section 160.262.

3. For any information obtained from a state agency or entity under sections 37.700 to 37.730, the office of child advocate shall be subject to the same disclosure restrictions and confidentiality requirements that apply to the state agency or entity providing such information to the office of child advocate. For information obtained directly by the office of child advocate under sections 37.700 to 37.730, the office of child advocate shall be subject to the same disclosure restrictions and confidentiality requirements that apply to the children's division regarding information obtained during a child abuse and neglect investigation resulting in an unsubstantiated report.

Complaint procedures--annual report, contents.

37.715. 1. The office shall establish and implement procedures for receiving, processing, responding to, and resolving complaints made by or on behalf of children who are recipients of the services of the departments of social services and mental health, and the juvenile court. Such procedures shall address complaints relating to the actions, inactions, or decisions of providers or their representatives, public or private child welfare agencies, social service agencies, or the courts which may adversely affect the health, safety, welfare, or rights of such recipient.

2. The office shall establish and implement procedures for the handling and, whenever

possible, the resolution of complaints.

3. The office shall have the authority to make the necessary inquiries and review relevant information and records as the office deems necessary.

4. The office may recommend to any state or local agency changes in the rules adopted or proposed by such state or local agency which adversely affect or may adversely affect the health, safety, welfare, or civil or human rights of any recipient. The office shall make recommendations on changes to any current policies and procedures. The office shall analyze and monitor the development and implementation of federal, state and local laws, regulations and policies with respect to services in the state and shall recommend to the department, courts, general assembly, and governor changes in such laws, regulations and policies deemed by the office to be appropriate.

5. The office shall inform recipients, their guardians or their families of their rights and entitlements under state and federal laws and regulations through the distribution of educational materials.

6. The office shall annually submit to the governor, the general assembly, and the Missouri supreme court a detailed report on the work of the office of the child advocate for children's protection and services. Such report shall include, but not be limited to, the number of complaints received by the office, the disposition of such complaints, the number of recipients involved in complaints, the state entities named in complaints and whether such complaints were found to be substantiated, and any recommendations for improving the delivery of services to reduce complaints or improving the function of the office of the child advocate for children's protection and services.

Independent review, when, procedures--recommendations, findings submitted.

37.719. 1. The office shall have the authority to and may conduct an independent review of any entity within a county that has experienced three or more review requests in a calendar year including, but not limited to, children's division, the juvenile office, or guardian ad litem. The office shall establish and implement procedures for reviewing any such entity.

2. The office shall have the authority to make the necessary inquiries and review relevant information and records as the office deems necessary in order to conduct such reviews.

3. The office may make recommendations on changes to any entity's policies and procedures based on the results of the review in order to improve the delivery of services or the function of the entity. Upon completing a review under the provisions of this section, the office shall submit any findings and recommendations to the children's division and the office of state courts administrator.

Files may be disclosed at discretion of child advocate, exceptions--privileged information--penalty for disclosure of confidential material.

37.725. 1. Any files maintained by the advocate program shall be disclosed only at the discretion of the child advocate; except that the identity of any complainant or recipient shall not be disclosed by the office unless:

(1) The complainant or recipient, or the complainant's or recipient's legal representative, consents in writing to such disclosure; or

(2) Such disclosure is required by court order.

2. Any statement or communication made by the office relevant to a complaint received by, proceedings before, or activities of the office and any complaint or information made or provided in good faith by any person shall be absolutely privileged and such person shall be immune from suit.

3. Any representative of the office conducting or participating in any examination of a complaint who knowingly and willfully discloses to any person other than the office, or those persons authorized by the office to receive it, the name of any witness examined or any information obtained or given during such examination is guilty of a class A misdemeanor. However, the office conducting or participating in any examination of a complaint shall disclose the final result of the examination with the consent of the recipient.

4. The office shall not be required to testify in any court with respect to matters held to be confidential in this section except as the court may deem necessary to enforce the provisions of sections 37.700 to 37.730, or where otherwise required by court order.

Immunity from liability, when.

37.730. 1. Any employee or an unpaid volunteer of the office shall be treated as a representative of the office. No representative of the office shall be held liable for good faith performance of his or her official duties under the provisions of sections 37.700 to 37.730 and such representative shall be immune from suit for the good faith performance of such duties. Every representative of the office shall be considered a state employee under section 105.711.

2. No reprisal or retaliatory action shall be taken against any recipient or employee of the departments or courts for any communication made or information given to the office. Any person who knowingly or willfully violates the provisions of this subsection is guilty of a class A misdemeanor.

Chapter 160

Schools--General Provisions

Section 160.262

Mediation, office of the child advocate to coordinate, when--procedures--binding agreement, when.

160.262. 1. The office of the child advocate as created in section 37.705 shall be authorized to coordinate mediation efforts between school districts and students and charter schools and students when requested by both parties when allegations of child abuse arise in a school setting. The office of the child advocate shall maintain a list of individuals who are qualified mediators. The child advocate shall be available as one of the mediators on the list from which parents can choose.

2. Mediation procedures shall meet the following requirements:

(1) The mediation process shall not be used to deny or delay any other complaint process available to the parties; and

(2) The mediation process shall be conducted by a qualified and impartial mediator trained in effective mediation techniques who is not affiliated with schools or school professional associations, is not a mandated reporter of child abuse under state law or regulation, and who is available as a public service.

3. No student, parent of a student, school employee, charter school, or school district shall be required to participate in mediation under this section. If either the school district or charter school or the student or student's parent does not wish to enter into mediation, mediation shall not occur.

4. Each session in the mediation process shall be scheduled in a timely manner and be held in a location that is convenient to the parties in dispute.

5. Discussions that occur during the mediation process shall be confidential and may not be used as evidence in any subsequent administrative proceeding, administrative hearing, nor in any civil or criminal proceeding of any state or federal court.

6. If the parties resolve a dispute through the mediation process, the parties shall execute a legally binding agreement that sets forth the resolution and:

(1) States that all discussions that occurred during the mediation process shall remain confidential and may not be used as evidence in any subsequent administrative proceeding, administrative hearing, or civil proceeding of any federal or state court; and

(2) Is signed by a representative of each party who has authority to bind the party.